

# BakerHostetler

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December 21, 2017

### VIA ECF AND ELECTRONIC MAIL

The Honorable Nicholas G. Garaufis  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

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Re: *Batalla Vidal, et al. v. Baran, et al.*, No. 1:16-cv-04756-NGG-JO  
*State of New York, et al. v. Donald Trump, et al.*, 1:17-cv-05228-NGG-JO  
Consent Motion for Leave to file *Amicus Curiae* Brief of LatinoJustice, *et al.*

Dear Judge Garaufis:

Our firm, Baker & Hostetler LLP, serves as pro bono counsel to LatinoJustice PRLDEF (“LatinoJustice”), and eighteen other non-profit organizations that make up a collection of civil rights defense funds, immigrant rights groups, policy, advocacy, and community service organizations, and student groups. I respectfully submit this letter to seek this Court’s leave to file an *amicus curiae* brief in the above-captioned cases.<sup>1</sup> Counsel for all parties have consented to our motion for leave to file an *amicus* brief.

LatinoJustice is a nonprofit, legal defense fund based in New York, New York, with additional offices in Orlando, Florida and Long Island, New York. LatinoJustice is joined by the following additional *Amici*: Alianza Americas, the Arab American Institute, the Asian American Legal Defense and Education Fund, Asian Americans Advancing Justice - AAJC, AAJC - Asian Law Caucus, AABANY, ASPIRA, the Council on American-Islamic Relations, CUNY DREAMers, Dream Action Coalition, the Hispanic Association of Colleges and Universities, the Hispanic National Bar Association, the Hispanic Federation, Inc., League of United Latin American Citizens, The New York State Youth Leadership Council, Presente.Org, RU Dreamers, and UnidosUS. The description of each *Amici* and their respective interests in this litigation are included in Appendix A to this letter.

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<sup>1</sup> LatinoJustice submits this under letter motion under Section III.A of Your Honor's Individual Rules, which require communications with chambers and do not expressly require pre-motion letters for motions for leave to file *amicus curiae* briefs. In the alternative, we respectfully request a pre-motion conference for leave to file an *amicus* brief under Your Honor’s Individual Rules.

The Honorable Nicholas G. Garaufis  
 December 21, 2017  
 Page 2

“District courts have broad discretion in deciding whether to accept *amicus* briefs.” *In re HSBC Bank, USA, N.A., Debit Card Overdraft Fee Litig.*, 14 F. Supp. 3d 99, 103 (E.D.N.Y. 2014) (citation omitted); *Jamaica Hosp. Med. Ctr., Inc. v. United Health Grp.*, 584 F. Supp. 2d 489, 497 (E.D.N.Y. 2008) (citation omitted). As this Court has previously held, “[a]n *amicus* brief should normally be allowed . . . when the *amicus* has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Andersen v. Leavitt*, No. 03-cv-6115 (DRH)(ARL), 2007 WL 2343672, at \*2 (E.D.N.Y. Aug. 13, 2007) (citation omitted). Here, LatinoJustice and its fellow *Amici* are uniquely suited to offer the Court an informed perspective on the impact the rescission of DACA will have on immigrant communities and in particular the privacy implications of the rescission.

LatinoJustice was founded in 1972 as the Puerto Rican Legal Defense and Education Fund and is one of the nation’s leading civil rights public interest law offices that represents Latinas and Latinos throughout the country. Its continuing mission is to protect the civil rights of all Latinos and to promote justice for the pan-Latino community. Over the past decade, LatinoJustice has been particularly active in immigrants’ rights and immigration reform through a combination of impact litigation, advocacy, community organizing and education. LatinoJustice has been at the forefront of combatting the proliferation of local and statewide, anti-immigrant ordinances and laws that flourished in the absence of federal immigration reform.

In recent years, the status of the Deferred Action for Childhood Arrivals (“DACA”) has become a focal point for immigration policy. LatinoJustice has not only supported the program’s expansion and preservation, but has also served as counsel to DACA grantees in legal proceedings. By way of example, in 2015 LatinoJustice represented Cesar Vargas, a DACA grantee, in his landmark case where an appellate panel of the State Supreme Court of New York approved Mr. Vargas’ application for a law license, recognizing him as the first undocumented attorney to seek bar admission in New York. Appendix A to this letter brief describes the interest of the additional *Amici* in the DACA program and its rescission.

The rescission of the DACA program will not only roll back protections for undocumented immigrants that LatinoJustice has historically championed, but is particularly flawed in that it does not offer adequate assurance that the information DACA grantees provided to DHS will not be used against them in removal proceedings contrary to DHS’ prior promises to DACA applicants. As *Amici Curiae*, we contend that the sharing of DACA recipients’ personal information for removal purposes not only violates the Administrative Procedure Act, but also fundamental privacy law rooted in equity and fairness.

LatinoJustice and its fellow *Amici* have a significant interest in this litigation because of the impact that the rescission of DACA and the sharing of confidential personal information for immigration enforcement purposes will have on their clients, affiliates and respective memberships, some of whom include many current DACA recipients, and by extension, their families.

The Honorable Nicholas G. Garaufis  
December 21, 2017  
Page 3

For the foregoing reasons, LatinoJustice respectfully requests permission to file its proposed *amicus* brief on December 22, 2017.

Respectfully submitted,

*/s/ Fernando A. Bohorquez, Jr.*

Fernando A. Bohorquez, Jr.  
Partner

cc: All Counsel of Record (VIA ECF)

THIS LETTER SHALL BE PART OF THE  
RECORD IN REFERENCED PROCEEDINGS

SO ORDERED

Dated: \_\_\_\_\_, 2017  
New York, New York

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HON. NICHOLAS A. GARAUFIS  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK